

REMARKS

Claims 13 to 34 are pending in the present application and subject to restriction. Applicants are herein amending claim 30. Applicants request entry of the amendment and reconsideration of the restriction requirement.

Amendments to Claims

Applicants are herein amending claim 30 to delete duplicate compounds. No new matter is added by the amendment to the claims.

Restriction Requirement

Claims 13 to 34 are pending in the present application and subject to restriction under 35 U.S.C. §§ 121 and 372 as follows:

Group	Claims	Subject Matter	Class/Subclass
I	Claims 13 to 31, 33	Compounds and compositions of compounds of Formula I	Not specified
II	Claim 32	Method of making the compounds of Formula I	Not specified
III	Claim 34	Method of treating using compounds of Formula I	Not specified

In addition, the Office is requiring an election of species in any group elected. The Office alleges that the inventions of each group do not share a special technical feature , *i.e.*, a feature that distinguishes the claims from the prior art.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05-§ 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

For purposes of the initial requirement, a serious burden may be *prima facie* shown if the examiner shows separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. In the subject application, the claims have been restricted into *three different groups*, however, the groups are not classified. Furthermore, any search of Group I would necessarily reveal the relevant art with respect to Groups II and III. Thus, applicant respectfully submits that a *prima facie* case of serious burden has not been established.

Applicants disagree with the Office's contention that the compound of formula I of the present invention are similar to the compounds disclosed in US-A-6,015,812, the apparent basis for the restriction requirement. Applicants submit that a skilled artisan would believe that the claimed compounds are very different from the compounds disclosed in US-A-6,015,812 and the structural differences between them would not have been obvious.

Thus, applicants respectfully request reconsideration of the requirement for restriction, and in particular an indication that the requirement is only a provisional election for the purpose of carrying out the search. Nonetheless, to be fully responsive to the restriction requirement, applicants elect *with traverse* to prosecute the claims of **Group I**.

Applicants request reconsideration that, since they have elected to prosecute the compound claims and if these claims are subsequently found allowable, the withdrawn method and process claims that depend from or otherwise require all the limitations of the allowable product claims will be rejoined.

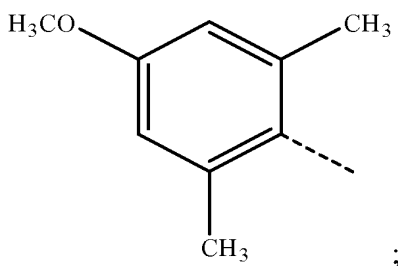
Election Requirement

The Office is also requiring an election of species with respect to Group I. Applicants elect *with traverse* the following species:

	Species	Claims readable on
Compound	<p>Example 79: N-[[4-(4,5-dihydro-1H-imidazol-2-yl)phenyl]methyl]-2-[2-[[[(4-methoxy-2,6-dimethylphenyl)sulphonyl]methylamino]ethoxy]-N-methyl-acetamide</p>	Claims 13 to 17, 21 to 27, and 29 to 31 as well as 32 and 34

The elected species is a compound of formula I where:

R₁ is



R₂ is CH₃;

R₄, together with R₃, forms a -(CH₂)₂;

R₅ is H;

R₆ is H;

Y is -(CH₂)₂-O-CH₂-.

It is applicants' understanding that they will be entitled to additional species that depend from or otherwise require all of the limitations of an allowable generic claim as provided by 37 C.F.R. § 1.141.

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PATENT

Applicants request entry of the amendments to the claims and reconsideration of the restriction requirement. If the Examiner is of a contrary view or further discuss the merits of the application, the Examiner is requested to contact the undersigned attorney at (404) 459-5642.

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